

§ 508.10 Burden of persuasion.

The petitioner has the burden of showing, by a preponderance of the evidence, that his or her continued service to or participation in the conduct of the affairs of the association does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association.

§ 508.11 Relevant considerations.

(a) In determining whether the petitioner has shown that his or her continued service to or participation in the conduct of the affairs of the association would not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association, in order to decide whether the Notice or Order should be continued, terminated, or otherwise modified, the Office will consider:

(1) The nature and extent of the petitioner's participation in the affairs of the association;

(2) The nature of the offense with which the petitioner has been charged;

(3) The extent of the publicity accorded the indictment and trial; and

(4) Such other relevant factors as may be entered on the record.

(b) When considering a request for the termination or modification of a Notice, the Office will not consider the ultimate guilt or innocence of the petitioner with respect to the criminal charge that is outstanding.

(c) When considering a request for the termination or modification of an Order which has been issued following a final judgment of conviction against a subject individual, the Office will not collaterally review such final judgment of conviction.

§ 508.12 Proposed findings and conclusions and recommended decision.

(a) Within 30 days after completion of oral argument or the submission of written argument where oral argument has been waived, the presiding officer shall file with the Secretary and certify to the Office for decision the entire record of the hearing, which shall include a recommended decision, the Notice or Order, and all other documents filed in connection with the hearing.

(b) The recommended decision shall contain:

(1) A statement of the issue(s) presented,

(2) A statement of findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record, and

(3) An appropriate recommendation as to whether the suspension, removal, or prohibition should be continued, modified, or terminated.

§ 508.13 Decision of the Office.

(a) Within 30 days after the recommended decision has been certified to the Office, the Office shall issue a final decision.

(b) The Office's final decision shall contain a statement of the basis therefor. The Office may satisfy this requirement where it adopts the recommended decision of the presiding officer upon finding that the recommended decision satisfies the requirements of § 509.38 of this chapter.

(c) The Secretary shall serve upon the petitioner and the representative of the Office of Enforcement a copy of the Office's final decision and the related recommended decision.

[54 FR 49444, Nov. 30, 1989, as amended at 56 FR 38306, Aug. 12, 1991; 59 FR 53570, Oct. 25, 1994]

§ 508.14 Miscellaneous.

The provisions of §§ 509.10, 509.11, and 509.12 of this chapter shall apply to proceedings under this part.

[54 FR 49444, Nov. 30, 1989, as amended at 56 FR 38306, Aug. 12, 1991]

PART 509—RULES OF PRACTICE AND PROCEDURE IN ADJUDICATORY PROCEEDINGS

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